

EXHIBIT 1

INTRODUCTION

Respondent David Williamson was a member of the Energy Commission for the City of Berkeley (the “City”). As a member of the Energy Commission, Respondent was a designated employee of the City, as defined in section 82019, subdivision (c) of the Political Reform Act (the “Act”),¹ and in the City’s conflict of interest code.

As required by the City’s conflict of interest code, each designated employee of the City is required to file an annual statement of economic interests by April 1st of each year (unless April 1st falls on a Saturday, Sunday, or official holiday, in which case the filing deadline is extended to the next regular business day).² On the statement of economic interests, the designated employee must disclose his or her reportable economic interests held during the preceding calendar year.

In this matter, Respondent failed to file a 2001 annual statement of economic interests by the April 2, 2002 due date.

The Enforcement Division handled this case on an expedited basis under the SEI Expedited Procedures adopted by the Commission in July of 1999.

For the purposes of this Stipulation, Respondent’s violation of the Act is stated as follows:

As a designated employee of the City of Berkeley, David Williamson failed to file a 2001 annual statement of economic interests by April 2, 2002, in violation of section 87300 of the Government Code.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, section 87300 requires every agency to adopt and promulgate a conflict of interest code. The agency’s conflict of interest code must specifically designate the employees of the agency who are required to file statements of economic interests, disclosing their reportable investments, business positions, interests in real property, and other

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Regulation 18116.

sources of income. Under section 82019, subdivision (c), and section 87302, subdivision (a), the individuals who are to be designated in an agency's conflict of interest code are the officers, employees, members, and consultants of the agency, whose position with the agency entails making, or participating in making, governmental decisions that may have a reasonably foreseeable material effect on one or more of the individual's economic interests.

Section 87302, subdivision (b) provides that an agency's conflict of interest code must require each designated employee to file an annual statement of economic interests, for each year that the employee remains in office, at a time specified in the agency's conflict of interest code, disclosing his or her reportable investments, business positions, interests in real property, and sources of income for the preceding calendar year.

Under section 87300, the requirements of an agency's conflict of interest code have the force of law, and any violation of those requirements is deemed a violation of the Act.

SUMMARY OF THE FACTS

Respondent was a member of the Energy Commission for the City of Berkeley. As a member of the Energy Commission, Respondent was a designated employee of the City, and was therefore required to file an annual statement of economic interests for the calendar year 2001, by April 2, 2002.

On January 22, 2002, Sherry Kelly, City Clerk for the City of Berkeley, sent a letter to Respondent, informing him that his 2001 annual statement of economic interests was due by April 2, 2002. On February 21, 2002, Ms. Kelly sent a second letter to Respondent, reminding him that his 2001 annual statement of economic interests was due by April 2, 2002. In spite of these reminders, Respondent failed to file a 2001 annual statement of economic interests by the April 2, 2002 due date, in violation of section 87300.

On April 10, 2002, Ms. Kelly sent a third letter to Respondent, advising him that his 2001 annual statement of economic interests, that was due by April 2, 2002, had not been received, and asking Respondent to file the statement immediately. Respondent was further advised that the matter of his failure to file would be referred to the Enforcement Division of the Fair Political Practices Commission (the "FPPC") if his delinquent statement was not received by May 10, 2002. When the statement was not filed in response to Ms. Kelly's letters, the matter was referred to the Enforcement Division.

On June 10, 2002, Mary Ann Kvasager, SEI Coordinator for the Enforcement Division, contacted Respondent by telephone, advising him that his 2001 annual statement of economic interests was past due, and she instructed him to file the statement immediately.

On June 10, 2002, Respondent filed his 2001 annual statement of economic interests.

CONCLUSION

This matter consists of one count of violating section 87300, which carries a maximum administrative penalty of Five Thousand Dollars (\$5,000). Under the SEI Expedited Procedures adopted by the Commission in July 1999, the approved administrative penalty for an individual who files a delinquent statement of economic interests within 30 days of being contacted by an Enforcement Division investigator, and agrees to an early resolution of the matter, is between \$200-\$300. However, in this matter, while Respondent filed his delinquent statement of economic interests within 30 days of being contacted by an Enforcement Division investigator, he failed to respond to the Enforcement Division's attempts to reach an early resolution of the matter, as specified under the SEI Expedited Procedures program. His case was therefore removed from the program.

The administrative penalty for statement of economic interests non-filing violations resolved outside the SEI Expedited Procedures program has historically been established on a case-by-case basis. In recent cases where a respondent filed a delinquent statement within 30 days of being contacted by the Enforcement Division SEI Coordinator, but failed to respond to any of the Enforcement Division's attempts to resolve the matter until after the issuance and service of an Accusation, the Commission imposed an administrative penalty of \$600 for the filing violation.

In this case, Respondent filed his delinquent statement within 30 days of being contacted by the Enforcement Division SEI Coordinator, but failed to respond to any of the Enforcement Division's attempts to resolve the matter, and did not even respond to being personally served with an Accusation. Respondent only came forward and expressed a willingness to resolve the matter after the Enforcement Division notified him that it was placing his case on the Commission's agenda for a default order. As such, a resolution of this case for a higher penalty, reflecting the aggravating and mitigating factors of the case, as well as the fact that resolution was only reached on the eve of a default order being sought, is justified.

Accordingly, an administrative penalty in the amount of One Thousand Two Hundred Dollars (\$1,200), double the penalty imposed where settlement was reached upon service of an Accusation, is appropriate.